THE HON'BLE SMT JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION Nos: 16781,12187, 14473, 14474 & 16782 of 2006

Dated:17.07.2007

WP No.16781 of 2006

Between

B.Kishan

.....Petitioner

and

1. The Govt of AP rep., by its Principal Secretary to Government Food & Civil Supplies Dept, Secretariat Buildings, Hyderabad and others.

…Respondents

WP No.12187 of 2006

Between

T.Sree Ramulu

.....Petitioner

and

2. The Govt of AP rep., by its
Principal Secretary to Government
Food & Civil Supplies Dept,
Secretariat Buildings, Hyderabad
and others.

…Respondents

WP No.14473 of 2006

Between

1.R.Sudershan and others.

..Petitioners

and

3. The Govt of AP rep., by its
Principal Secretary to Government
Food & Civil Supplies Dept,
Secretariat Buildings, Hyderabad
and others.

..Respondents.

WP No.14474 of 2006

Between

G.Suryanarayana

..Petitioner

and

1.The Govt of AP rep., by its
Principal Secretary to Government
Food & Civil Supplies Dept,
Secretariat Buildings, Hyderabad
and others.

..Respondents

WP No.16782 of 2006

Between

1.Syed Waheedul Hasan and others.

..Petitioners

and

1. The Govt of AP rep., by its Principal Secretary to Government Food & Civil Supplies Dept, Secretariat Buildings, Hyderabad and others.

..Respondents.

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

W.P.No.16781, 12187, 14473,14474, & 16782 of 2006

COMMON ORDER: *(Per the Hon'ble Smt Justice T.Meena Kumari)*

Since the issue involved in all the writ petitions, is one and the same, they are taken up together and disposed of by this common order.

All these writ petitions have been filed seeking to call for the records pertaining to the order dated 7.10.2005 passed in

O.A.Nos.4671 of 2003 and 4691 of 2003 by the Andhra Pradesh Administrative Tribunal and to quash the same as arbitrary and illegal.

The facts that led to the filing of these writ petitions are that initially, all the petitioners were appointed as Junior Assistants and subsequently, promoted as Senior Assistants, Inspectors and District Inspectors in the respondent-Legal Metrology Department as they are fully qualified and eligible for being recruited by transfer and are working as such. Paragraph 5 (1) of the Presidential Order makes it clear that each part of the State for which the local cadre has been organized in respect of any category of post shall be a separate unit for the purpose of recruitment, appointment, discharge, seniority, promotion and transfer and such other matters as may be specified by the State Government in respect of category of posts. The Andhra Pradesh

Administrative Tribunal has been reconstituted as one such Tribunal and established in accordance with the provisions contained in the Administrative Tribunals Act 1985, Central Act No.13 of 1985. Therefore, the Andhra Pradesh Administrative Tribunal derives its powers and jurisdiction to exercise the same strictly in accordance with the provisions contained in the Administrative Tribunals Act, 1985. A bar has been created in exercise of the jurisdiction by the Tribunal under Section 20 and a limitation has been provided under Section 21 of the Act. Even such powers can be exercised when power of jurisdiction has been exclusively conferred on the Tribunal under Section 28, while Section 33 of the Act conferred overriding effect of the provisions of the Act. Therefore, the State Administrative Tribunal is not entitled to entertain any application under Section 19 of the Act, which

does not comply with the requirements of Section 20 and 21 in particular of the said Act. Without examining the principle of exercise of such jurisdiction, the Andhra Pradesh Administrative Tribunal has erred in entertaining the two applications i.e., O.A.No.4671 of 2003 and 4691 of 2003 filed by the un-official respondents, who are directly recruited as Inspectors in the respondent-department. Every Inspector who was so recruited in the Weights and Measures Department is entitled to be fitted in the unit of seniority on the basis of his meritorious service record. By virtue of the length of service rendered, every Inspector is entitled to have his case considered for promotion to next higher post i.e, District Inspector and that cannot be denied or nullified in any other manner. The unofficial respondents could not have made any challenge to the right of the

petitioners to seek further promotion as District Inspectors. Unfortunately, the Tribunal while entertaining the said OAs grossly ignored to take into consideration of all these aspects. The OAs in question instituted by the unofficial respondents do not deserve to be entertained at all. Some of the petitioners are on the verge of retirement having been left with a few years of service, whereas the unofficial respondents are far younger in age and consequently, can continue in service for longer periods.

On the O.As., filed by the unofficial respondents, the Tribunal has disposed of the same in terms of the judgment in O.A.No:3122 of 2003 and batch dated 7.12.2004. In consequence of the said judgment, the second respondent issued the impugned show cause notice dated 8.6.2006 to some of the petitioners proposing to revert them from the

post of Inspector of Legal Metrology. In the said show cause notice, the orders of Andhra Pradesh Administrative Tribunal in O.A.No.4671 of 2003 and 4691 of 2003, dated 7.10.2005 have been referred to, which are said to be the basis for issuing the impugned show cause notice.

The only grievance of the petitioners is that the probation of the some of the petitioners, has been declared in the category of Inspector of Legal Metrology. Further, some of the similarly situated persons, who were appointed along with them, have not been issued with any such show cause notice, but some of the petitioners were sought to be reverted by issuing the show cause notice in question. The second respondent without considering all these aspects, has issued the impugned show cause notice.

It seems that the petitioners have not submitted their explanation to the show cause notice. But, they have straight away filed this writ petition questioning the show cause notice. Since the impugned proceedings, is a show cause notice, nothing can be adjudicated in this regard unless the explanations are submitted by the petitioners to the respondent authorities.

Therefore, in the facts and circumstances of the case, without expressing any opinion on the merits of the case, We feel it appropriate to direct the petitioners to submit their explanations to the show cause notice dated 8.6.2006, within a period of eight (8) weeks time from the date of receipt of a copy of this order and on filing such explanations by the petitioners, the authorities shall consider and dispose of the same, within a period of eight

weeks thereafter, in accordance with law. Till such time, the interim order granted on 27.6.2006 shall continue.

Subject to the above direction, all these writ petitions are disposed of. No costs.

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(T.MEENA KUMARI, J)

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(G.CHANDRAIAH,J)

Dated: 17.7.2007
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